

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

BETTY S. PARKER,

Plaintiff,

v.

Civil Action No.: 2:04cv439

**JO ANN BARNHART,
COMMISSIONER OF SOCIAL SECURITY,**

Defendant.

OPINION AND ORDER

Plaintiff brought this action under 42 U.S.C. § 405(g) seeking judicial review of the final decision of the Commissioner of Social Security (“Commissioner”) denying her claim for disability insurance benefits and supplemental security income benefits under the Social Security Act (“SSA”). Pursuant to the provisions of 28 U.S.C. §§ 636(b)(1)(B) and (C), Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia, and by order of reference dated December 8, 2004, this matter was referred to United States Magistrate Judge Stillman for a Report and Recommendation. (Doc. 9.)

The Report and Recommendation of the Magistrate Judge (“R&R”), filed on January 13, 2006, (Doc. 16), found that the following determinations of the Administrative Law Judge (“ALJ”) are supported by substantial evidence and based on a correct application of relevant law: 1) the opinion of Dr. Hansen was entitled to little weight; 2) the proper weight to be accorded the opinions of all treating and non-treating medical personnel; 3) that Plaintiff has the residual

functional capacity to perform a limited range of light to sedentary work, with significant non-exertional limitations restricting Plaintiff to the performance of simple, repetitive job tasks; 4) the correct legal standard in evaluating the credibility of Plaintiff's testimony; and 5) that Plaintiff's testimony was not totally credible. The R&R also found that the Commissioner's sequential disability analysis and determination of the proper date of Plaintiff's disability was supported by substantial evidence and based upon a correct application of the relevant law, as was the Appeals Council's decision to adopt the ALJ's finding that Plaintiff was not disabled prior to December 31, 1995, and the Appeals Council's decision that Plaintiff was disabled on February 6, 1998. Accordingly, Magistrate Judge Stillman recommended the following: 1) that the final decision of the Commissioner be upheld; 2) that Defendant's Motion for Summary Judgment be granted; and 3) that Plaintiff's Motion for Summary Judgment be denied.

By copy of the R&R, each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge within ten (10) days from the date the R&R was mailed, pursuant to Rule 6(a) of the Federal Rules of Civil Procedure. The time for filing written objections has now passed, and neither party has filed objections. See R&R, p. 55. As indicated in the R&R, "failure to file timely objections to the findings and recommendations set forth [in the R&R] will result in a waiver of the right to appeal from a judgment of this Court based on such findings and recommendations." See R&R, p. 56.

This Court has reviewed the R&R of the Magistrate Judge and hereby ADOPTS and APPROVES in full the findings and recommendations set forth therein. Accordingly, it is hereby **ORDERED** that the final decision of the Commissioner be **UPHELD**, that Plaintiff's Motion for Summary Judgment be **DENIED**, and that Defendant's Motion for Summary Judgment be

GRANTED. Accordingly, the Court orders that this case be **DISMISSED**.

Plaintiff is advised that she may appeal from this Opinion and Final Order by forwarding a written notice of appeal to the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510. Said written notice must be received by the Clerk within sixty (60) days from the date of this Order. If Plaintiff wishes to proceed in forma pauperis on appeal, the application to proceed in forma pauperis is to be submitted to the Clerk, United States Court of Appeals, Fourth Circuit, 1100 E. Main Street, Richmond, Virginia 23219.

The Clerk is **REQUESTED** to send a copy of this Opinion and Order to Plaintiff and all counsel of record.

It is so **ORDERED**.

/s/
HONORABLE HENRY COKE MORGAN, JR.
SENIOR UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
March 27, 2006